made clear in 1993 that it would be refining its leased access rules.[44]

The Commission suggests that a transition period would "mitigate against the sudden disruption to subscribers' programming line-ups." Notice ¶ 99. Such disruptions, however, are characteristic of the industry. Moreover, pursuant to their affiliation agreements, cable operators typically have bargained for a right to termination on short notice (e.g., 30 days).[45] These contracts recognize the reality that cable operators frequently want to replace cable networks, which are often short-lived.[46]

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[43] (...continued) contracts to use the channel capacity. See 47 U.S.C. § 532(b)(4).

[44] Report, 8 FCC Rcd at 5936.

[45] For examples of these negotiated with ValueVision, see Ex Parte Presentation of ValueVision, MM Docket No. 92-266 (Mar. 12, 1996).

[46] See, e.g., Cable Network Seeks Gold in the Gray, Electronic Media, Apr. 15, 1996, at 1, 30 (citing the failure of Our Time Television and Golden American Network); Compression is Key: Number of New Cable Channels Continues to Grow, Despite Setbacks, Communications Daily, Feb. 14, 1995, at 2 (reporting on the short lives of such planned networks such as American Medical TV, USA Direct, and Americana TV Network, and citing the apparent death of at least a dozen channels before they could start); Sugar Barons to Aid Federal Inquiry, Sun-Sentinel, July 15, 1995 (citing the failure of Catalog 1, the cable shopping channel that was a joint venture between Time Warner and Spiegel); John M. Higgins, Catalog 1 Pulls Back, Focuses on Interactivity, Multichannel News, Feb. 6, 1995, at 33 (discussing the failure of a number of home shopping ventures); Wayne Walley, Ecology Channel Finds Cable Tough Turf for New Networks, Electronic Media, Apr. 29, 1996, at 13; Michael Katz, New Networks Fight for Space: Deep Pockets, Friends in High Places Are Best Weapons in Tight-Market Fight for Carriage, Broadcasting & Cable, Apr. 29, (continued...)

VI. A REQUIREMENT THAT OPERATORS PLACE LEASED ACCESS PROGRAMMERS ON PROGRAMMING TIERS WITH THE HIGHEST SUBSCRIBER PENETRATION WOULD FULFILL THE COMMISSION'S STATUTORY MANDATE TO PROVIDE A GENUINE OUTLET FOR LEASED ACCESS PROGRAMMERS.

ValueVision strongly endorses the Commission's tentative conclusion that "leased access programmers have the right to be placed on a tier, as opposed to being carried as a premium service." Notice ¶ 118. That approach is consistent with congressional intent that the Commission ensure that programmers are carried on channel locations that "most subscribers actually use."[47] As the Commission indicates, both the basic service tier and cable programming service tier "with the highest subscriber penetration qualify as genuine outlets." Notice ¶ 119.

Respectfully submitted,

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May 15, 1996

[46](...continued)
1996, at 61; Richard Katz, NCTA: No Place for New Nets, Multichannel News, Apr. 29, 1996, at 5, 10.

[47] Senate Report, at 79.

Media Group Research

MGR

INDUSTRY REPORT

Commercial Leased Access to Change Cable Landscape

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Summary

The effort to open up substantial channel capacity on cable systems for unaffiliated programmers has taken a slow and tortuous route that began with the Cable Act of 1984, took added dimension with the Cable Act of 1992, and stalled as a result of the FCC's ill-conceived 1993 Rulemaking and its three year wait to issue Orders on Reconsideration. In its new report, the Commission acknowledges the failure of the old rate formula and correctly identifies the theoretical flaw. The proposed new rules are based on a significantly different formula which seems remarkably simple and elegant given the complexity of the issue. Regardless of whether one believes that Congress should have imposed the business of leased access on system operators, it seems clear that the Commission has crafted rules which should effectively achieve the competition which Congress intended.

The formula looks ultimately to the opportunity cost of displacing existing programming if set aside leased access capacity is not fully used and to competitive market rates thereafter. We believe that the formula will yield substantial usage if operators truly displace their less profitable offerings. We expect significant activity from home shopping/infomercial providers, substantive use by advertiser supported networks with the right economic structure, possibly some use by well funded non-profits, but probably little or no activity related to the launch of traditional full-time subscription services. The amount of capacity to be dedicated to leased access is quite substantial: 3 channels on qualifying systems of lower capacity; 4-7 channels on systems of average capacity and 8+ channels on higher capacity systems.

We believe that the rules are likely to be adopted with only modest modification. A major controversy is likely to erupt over a potential phase-in of the rules which the Commission is willing to consider (but has not specifically recommended), an action that would effectively postpone implementation over the course of the transition period chosen. We believe, however, that there will be no significant transition adopted and that major leased access activity should commence by the beginning of 1997.

Background

One of the underrecognized and little remembered elements of the Cable Act of 1984 (which deregulated cable rates) was the Leased Access provision. It required that system operators dedicate a certain percentage of their capacity for commercial use by unaffiliated programmers. Systems with 36-45 channels had to reserve 10% of capacity excluding government mandated channels (e.g., must carry channels), those with 55-100 channels 15% of non-mandated channels, and those over 100 channels 15% of all channels. Since cable operators were free to set their own prices and since they had no interest in creating competition on their system or tying up capacity that they themselves would otherwise control, prices were not set to encourage use and leased access activity was negligible. Recognizing that its objectives had not been met and becoming more sensitive to competitive issues in cable programming, Congress reiterated its support for commercial leased access in the 1992 Cable Act and amended the previous law to give the FCC the authority and mandate to exercise jurisdiction. Specifically, the Commission was required to determine maximum reasonable rates that system operators could charge for leased access, to establish reasonable terms and conditions for use and to construct procedures for dispute resolution.

In its Report and Order on Leased Access which was issued in the spring of 1993, the FCC's stated goal was to set maximum rates for leased access that would recover the value of channel capacity only. Reflecting its legislative guidance, the Commission also expressed its desire not to adversely affect the operation, financial condition or market development of cable systems. The solution was to create three programming categories for leased access: pay-per-view; home shopping; and all others. The FCC required cable operators to calculate the implicit fees charged existing non-affiliated cable programmers and to identify the highest rate in each category which then became the maximum rate for commercial leased access users. The implicit rate is calculated by determining the amount paid per month by subscribers for the service and deducting from that the amount that is paid per month to the programming service vendor. The difference between the amount received and the amount paid is the net implicit leased channel rate.

From the outset, however, it was clear to most potential leased access users that the implicit fee formula was ill-conceived and would not stimulate the independent programming activity that Congress sought. From a practical point of view, rates based largely on the average subscriber revenue per channel are uneconomical for practically any category of lessee. For instance, if the channel were on a basic tier that was priced at $20 for 40 channels, the maximum leased access rate would likely be $0.50 per channel per month. This is a far cry from the $0.10 per channel per month that a well run home shopping programmer might be able to afford or the less than $0.05 per channel rate that could stimulate activity by advertiser supported networks with the right economic structure.

A number of potential leased access programmers filed Petitions for Reconsideration on various aspects of the Commission's rules, most notably the implicit fee formula itself. While the Commission repeatedly signaled that it recognized that problems existed and that the petitions would be addressed within the coming months, no action was taken in the balance of 1993 or in 1994 or in 1995. Late last year one petitioner, ValueVision, sought to force the issue by taking the FCC to court over its inaction. Whether or not this was the necessary stimulus, the FCC put the issue on its March agenda (as it had suggested in response to the court). While some rule changes were enacted at that time, the bulk of the issues were put into a Proposed Rulemaking, ostensibly because the modifications were significant and required additional commentary from interested parties. The full text was released at the end of last week, comments are due by May 15, responses by May 31, and the Commission will presumably issue its final ruling not long thereafter.

The Proposed Rules

The FCC in its Rulemaking and in its Notice of Proposed Rulemaking has acknowledged the failure of the implicit fee formula and, most importantly, has understood the inherent theoretical flaw in this initial effort. As the Commission points out, the implicit fee formula created a *de facto* "double billing" situation where the operator recovers revenues for carrying the programming once from the subscriber and once from the programmer. Essentially the Commission believes that the implicit fee formula is not based on the reasonable costs that leased access programming imposes on operators, particularly since the maximum rate is based on the channel with the highest markup over programming costs.

In its place the FCC has proposed a cost/market rate formula which it believes would allow the operator to continue to recover its operating costs to the same extent it would without leasing and to recover additional reasonable costs, including a reasonable profit, associated with leased access. The formula first calls for the operator to designate the set aside channels to be used for leased access. The operator then calculates his two cost components: operating costs and opportunity costs. Operators are permitted to use subscriber revenues as a proxy for the operating costs for tiered channels. Opportunity costs would be the reasonably quantifiable costs (or savings) associated with carrying the leased access programming instead of other programming. These would include local advertising or direct sales commissions previously generated by the channel (less any program license fee paid for the channel). (When calculating the charge for leasing a channel, the operator cannot include subscriber revenues for an applicant who wishes to use a tiered channel [since that revenue is not foregone] but he can in the case of an applicant who wishes to use a premium channel.) Once the individual channel costs are established, the Commission proposes that they be averaged and that this price (adjusted for tiered vs. premium channel applicants) be applied to all the designated leased access channels which the operator has set aside. Once the set aside capacity has been filled, rates are allowed to rise in line with market demand.

As an appendix to this report, we have attached reproductions of two appendices ("B" and "D") of the Commission's own report which detail the steps involved in the calculation and include a specific example.

Beyond the proposed formula itself, the FCC addressed a number of other significant issues related to the terms and conditions of leased access usage. The Commission:

- proposes to allow operators to adjust the unused leased access channels designations annually to account for shifts in popularity and profitability of program services;
- will allow cable operators to prorate the maximum rate with time of day pricing and proposes that operators be allowed to add administrative expenses to the maximum rates for part-time users;
- seeks comment on whether there should be reserved leased access capacity and/or preferential rates for non-profit programmers;
- tentatively concludes that leased access programmers have a right to be placed on tiers that serve a majority of the system's subscribers, although it left open the question of whether it has to be the tier with broadest penetration;
- tentatively concludes that operators need not open up a leased access channel (whether occupied or dark) unless a programmer requests eight or more hours within a 24-hour period;
- tentatively concludes that lessees be selected on a first-come, first-served basis, although it suggests that some content-neutral selections could be made by system operators when capacity is insufficient to handle all requests (e.g., selection of a full-time lessee in favor of a part-time lessee);
- reflected the provision of 1992 Act which allowed cable operators to place programming from a qualified minority or educational programming source on up to 33 percent of the designated leased access channels (so long as the source was added subsequent to 7/1/90) and tentatively concludes that this programming, like leased access channels themselves, had to be carried on a widely distributed tier;
- tentatively concludes that a leased access programmer could only file a rate complaint after a CPA had first reviewed the operator's calculations and made an independent determination of the maximum rate;
- seeks comment on the advisability of allowing the resale of leased access time.

Assessment of FCC Proposals

While it is easy to sympathize with cable operators and programmers who feel proud of the array of channel offerings that have been created by the industry and who resent the potential intrusion of leased access on their traditional business, it is important to recognize that their quarrel is ultimately with legislation enacted by Congress rather than FCC policy. The rezoning of cable real estate occurred in 1984, and in 1992 the FCC was charged with enforcing the will of Congress to create a commercial mall in which the owner would have little or no say over the tenants, but which had to be constructed in a way that did not economically disadvantage him. Not surprisingly, concerns have been raised over the demolition of buildings that should have been erected as temporary structures and over the uncontrollable influx of new shops that could set the wrong tone and bring down the value of the neighborhood.

Having quietly failed in their 1993 effort, one can guess why the Commission was in no hurry to begin this thankless task anew. However, given the complexity of the issues, we have been rather impressed by the relatively simple and elegant solution that has been proposed. The cost formula appears to bring the initial price of the channel capacity to as low a level as possible without injuring the cable operator and does it in a way that does not differentiate among program categories other than a logical shift in the formula to accommodate premium program channels. When the capacity is filled, as Congress intended, maximum rates revert to market levels and allow cable operators to earn as large a return on these channels as demand will permit.

To be sure, some sections of the Proposed Rulemaking will be reviewed and refined. The Commission probably needs to be more precise on such issues as channel selection (e.g., who picks the channel if more than one is available), the ability of incumbent or leased access programmers to bid for channel capacity in order to preserve their distribution, and the practical meaning of first come/first served. Other items appear to have been overlooked, including treatment of launch fees (and their amortization) for computing leased access rates. Similarly, the costs of scrambling, billing, collecting, and marketing have not been cited in the calculation of net costs for designated premium channels.

Practical Impact

It is our guesstimate that maximum leased access rates will fall to a few pennies per sub per month for users of a tier but remain above $0.50 per sub per month for premium channel applicants (i.e., $0.50+ for each sub on the tier—thus if 10% took the premium offering, the programmer would be paying over $5 per actual premium subscriber to the system operator). To come up with these numbers, we have assumed that cable operators designate their least profitable program channels through economic logic or, conversely, are prevented from designating significantly more profitable program channels (in order to entirely thwart demand for leased access) by Commission efforts to close this potential loophole.

We believe that leased access channels will be used both by direct marketers (i.e., home shopping/infomercials) and also by certain advertiser supported networks, at least initially when the cost formula prevails. These price levels might even attract some non-profit activity depending on their foundation support and the objectives of their programming. It is certainly possible (but by no means clear, since a glut of this genre could reduce the potential for individual channels) that under market conditions (i.e., full capacity) direct marketers could outbid most advertiser supported networks. Certainly the better financed and managed shopping networks could pay up into the $0.10 per sub per month range. It is also reasonable to expect that certain hybrid networks will emerge with more than one revenue stream. Although we will undoubtedly see some part-time usage, the preference we expect operators will show for 24-hour lessees and the economic advantage of full-time usage will probably make the dedicated channel nearly as prevalent in leased access as it traditionally has been in cable programming. Due to significantly higher maximum rates for premium channels, incremental costs for marketing, billing, collection and technical services (i.e., scrambling) and the absence of system operator marketing support, it is hard to contemplate the successful launch of full-time premium channels.

Despite the blow to their egos from losing control of part of their precious capacity, we believe that cable operators will be net beneficiaries as long as the mix of leased access programming shows some degree of diversity. If the latter holds true, subscriber dissatisfaction will be minimal at worst, and as market rates begin to prevail, channel leasing revenues from this new business will exceed the modest foregone profit from prior channel usage. It is also reasonable to suspect that the emergence of leased access will tighten up capacity such that negotiating leverage with programming networks for traditional contractual carriage should swing more in the system operator's favor.

As to the impact on cable networks, we believe that established programmers with popular products will be at very little risk of being bumped. There are a fair number of marginal channels with minimal ratings that will suffer distribution losses, however, just as there were when must carry became law and when retransmission consent negotiations resulted in commitments to several new networks owned by major broadcast groups. In addition, the leased access phenomenon will significantly reduce the number of successful new advertiser supported networks under traditional affiliate associations, and only those few with the right economic structure will thrive as channel lessees.

Finally, it seems fairly obvious that the significant leased access demand we forecast will induce system operators to accelerate their plans to expand channel capacity. To put some dimension on the issue, we estimate that systems serving 50 million subscribers, or roughly 80% of the industry will be affected. Of the systems that qualify (i.e., offering 36+ channels), those with less total capacity are probably required to set aside 3 channels, while the more typical systems probably need to dedicate 4-7 channels and the higher capacity systems (i.e., 60+ channels) will need to reserve 8 or more.

The Fate of the Proposed Rules

Although opposition from both cable programmers and cable operators can be expected to be severe, we suspect that the Commission will adopt these proposed rules with only minor modifications. The staff has wrestled long and hard with a set of complex issues and has crafted a fairly simple and ostensibly workable formula that appears to satisfy the objectives of Congress as stated in the Cable Acts of 1984 and 1992. There just does not appear to be a better solution for getting this capacity used (and, as noted previously, the issue of whether it should be used in this fashion is beyond the Commission's discretion).

Beyond the expected jockeying over channel designation and allocation procedures, we would assume that the most contentious issues will be tier placement, compensation for lost subscriber revenue, and preference for non-profit programmers. We believe that the intent of Congress was fairly clear in regard to the need for widespread distribution if these programmers are to fulfill the objective of competition, and we doubt that the Commission will back away from its commitment to program access on major tiers. We also believe that the Commission will take a hard line on quantification of claimed subscriber revenue losses (and undoubtedly some leased access programmer will make the point that the inverse should also be applied—reduced leased rates for a programmer who can demonstrate increased subscriber revenues attributable to the addition of his service!). We also believe that the Commission will be reluctant to set aside capacity for non-profits (as it was in the last Rulemaking) and that it will be impossible for the Commission to justify discounts for this user group under the cost formula (since a lower rate would presumably have a negative financial impact on the system operator). While we have not seen it yet suggested, it is conceivable that the concern over home shopping/infomercial domination and the desire not to exclude non-profits could lead to the proposal that no one program category account for more than a certain percentage (e.g., 50%) of the leased access channels. The major drawback, ironically, would be that such a situation would yield lower rates for the system operator than a totally free market, so that the Commission would have to place the object of program diversity within leased access above what it considers to be the fair return to system operators.

As noted previously, comments to the FCC are due by May 15 and replies by May 31. The Commission has vowed to act expeditiously on this issue. Given the upcoming crush of Rulemakings imposed by the Telecommunications Act of 1996 as well as the overhanging lawsuit by ValueVision, we believe that a final Report and Order will be issued on a timely basis, likely by early summer.

"Transition Relief" — *de facto* Postponement?

Beyond the proposed rules themselves, undoubtedly the most significant and contentious element of the Rulemaking is the Commission's suggestion that transition relief might be appropriate in cases where leased access requests could not be accommodated on dark (i.e., unused) channels but required existing programmers to be bumped. In most cases dark channels represent only a small minority (if any) of the capacity available for leased access. Under a transition relief scenario, the new cost formula would be phased in over time. In an example provided as an appendix to the text, the Commission concocted a three year transition which would bring rates down in an annual step fashion until the pure cost formula was applied in April of 1999. For all practical purposes, however, this would not be a transition but simply a postponement. As discussed previously, the existing implicit fee rates are so high that even bringing them down to one half or one quarter of the current level would not bring the rates to the $0.10 per sub per month level necessary to stimulate channel usage.

The fact that the economic (il)logic of this paragraph is totally out of synch with the other sixty pages of text leads us to believe that it may have been inserted as a last minute political concession. It is important to recognize as well that the Commission's endorsement is halfhearted at best and is not in fact a recommendation (although it appears to resemble more the latter than an idle thought).

The answer as to whether the Commission would actually adopt a transition policy of any appreciable length appears to hinge on the law itself, as well as its tortured history of implementation, precedents Congress and/or the Commission may have set on similar topics and the practical consequences of the transition. First of all, the law specifically requires the cable operator to set aside capacity (and has since 1984 when less than one-third of all cable subscribers were served by potentially affected [i.e., 36+ channel] systems) and it does not address squatters rights (i.e., program services inserted on these channels temporarily in lieu of leased access users). The Commission wonders whether the transition would avoid unduly penalizing system operators and programmers for decisions to use designated channels based on the previous rules. It is curious that the Commission did not consider this impact when it introduced its first set of rules in 1993, which after all were constructed in good faith with the intention of achieving the same results. In those rules the Commission made it clear that if the desired objective was not achieved, it would make revisions as appropriate. In fact, as some leased access wags will surely point out, this three year reconsideration process could itself be deemed the transition relief suggested by the Commission.

As to other precedents, one can look to the 1992 Cable Act and note how Congress and the FCC handled must carry, a ruling which displaced cable programmers in favor of broadcasters (and led to the further disruption of retransmission consent, in which cable operators gave away channel capacity reserved for leased access to group broadcasters, including three of the four major networks). There was no provision for phasing in the carriage of these stations as transition relief. Similarly, the rollback of cable rates, which lay at the heart of the 1992 Act, was not phased in over time. In both of these cases, the cable operator suffered economic damage, whereas in the case of leased access, by the very nature of the Commission's efforts, the rules have been crafted to prevent economic harm to the operator. Furthermore, leased access as law, including channel set asides, predated the 1992 Act and its must carry provision.

We have alluded to the fairly obvious practical effect of "transition relief" in shutting down leased access almost entirely for the duration of the transition period. We suspect that some leased access programmers may also draw the Commission's attention to the cable operators' ability to exercise effective editorial control during this period by offering capacity at lower than maximum rates to preferred programmers, particularly near the end of the period when the maximum rates will soon be due to come down to economically attractive levels for a wide range of programmers.

The Commission also mentioned the potential disruptive impact to subscribers of changes in their programming line-up. Again, this does not differ from the consequences of must carry (and retransmission consent) or the self-instigated efforts of cable operators to retier, to add new programming and to replace those services which have not proven sufficiently attractive. It seems logical that the one month's advance notification to subscribers which is required of system operators would fit this circumstance as well.

Suffice it to say, for the reasons stated above, we believe that the likelihood of the FCC imposing a substantial transition period for implementation of the new rules is relatively low, and that if it did, the chance of the postponement withstanding a court challenge is itself relatively low. It is our belief that the period prior to implementation of the new formula will be measured in terms of months rather than years. To be sure, there will be plenty of litigation subsequent to the issuance of final rules, but we think that commercial leased access under something very closely resembling the proposed rules will become reality by the beginning of 1997 or shortly thereafter.

Calculation of Proposed Cost Formula

Step 1: ***Designate Leased Access Channels***

Designate specific channels to be used as leased access channels. The number of channels designated must be at least equal to the system's set-aside requirement set forth in Section 612(a). The channels that are designated for purposes of calculating this formula must be those that the operator actually intends to use for leased access if demand exists. Any type of channels (e.g., those on programming tiers, those offered as premium services, those currently carrying no programming, those carrying non-leased access programming, and those carrying leased access programming) may be designated.

Step 2: ***Calculate the Per Channel Cost for Each Designated Channel Presently on a Tier***

(a) Divide the monthly tier subscriber charge for the relevant tier by the number of channels on that tier to obtain the monthly "average subscriber revenue." This number represents the "operating costs" of the system that are allocated to each channel on the system, regardless of whether leased access or non-leased access programming is carried on the channel.

(b) Calculate the "net opportunity costs" for the channel on a per subscriber per month basis.[1]

(c) Add the average subscriber revenue from Step 2(a) to the net opportunity costs from Step 2(b), and multiply the total by the number of subscribers receiving the relevant tier. The result is the Per Channel Cost.[2]

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1 See Section IV.A.a.iv. of the text of this *Order on Reconsideration and Further Notice of Proposed Rulemaking* for how to calculate the net opportunity costs for a dark channel.

2 Note that, in contrast with the highest implicit fee formula, the cost formula is not calculated on a per subscriber basis. While the number of subscribers to the tier or programming service is factored into the maximum reasonable rate, the cost formula results in a rate for one full-time channel for all subscribers on the entire system.

Step 3: ***Calculate the Per Channel Cost for Each Designated Channel Presently Carried as a Premium Service***

(a) Subtract the per subscriber license fee paid by the operator to the programmer from the revenue received by the operator from each subscriber. This net revenue is presumed to cover all operating and opportunity costs; however, if it does not, add any additional opportunity costs associated with leasing the channel.

(b) Multiply this amount derived in Step 3(a) by the number of subscribers currently subscribing to the premium service. The result is the Per Channel Cost.

Step 4: *Average the Per Channel Cost of All the Designated Channels*

Total the Per Channel Cost of all of the designated channels (including tiered and premium programming services) and divide by the number of channels. The result is the Maximum Monthly Rate for a full-time leased access channel on the system, assuming that the system's leased access set-aside requirement is not being fully used by leased access programmers.[3]

Step 5: ***Calculate the Amount to Be Charged to the Leased Access Programmer***

(a) If a leased access programmer requests a full-time channel on a tier, subtract the total subscriber revenue (the average subscriber revenue from Step 2(a) multiplied by the number of subscribers) for the tier on which the leased access programming is to be carried from the Maximum Monthly Rate in Step 4. The difference is the portion of the Maximum Monthly Rate that the operator may charge the leased access programmer directly.

(b) If a leased access programmer requests that its programming be carried as a premium service, the full Maximum Monthly Rate may be charged to the leased access programmer, as long as all of the monthly subscriber revenue for the channel flows to the leased access programmer.

(c) If a leased access programmer requests less than a full-time channel (i.e., part-time use), the tiered and premium service rates from Steps 5(a) and 5(b) may be prorated (evenly or based on time of day pricing, at the operator's option) to calculate the appropriate rate.

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[3] As described in the *Order and Further Notice*, if the set-aside requirement is being fully used by leased access programmers, the maximum reasonable rate is the market rate, i.e., whatever the operator can negotiate and continue to meet its set-aside requirement.

Numerical Illustration of the Proposed Cost Formula*

TIER CHANNEL

Opportunity Costs	= $0.10 per sub
Operating Costs	= $0.50 per sub
Number of Subs	= 20,000
Channel Charge	= $0.60 X 20,000
	$12,000.00

PREMIUM CHANNEL

Opportunity Costs +	
Operating Costs	= $2.50 per sub
Number of Subs	= 7,000
Channel Charge	= $2.50 X 7,000
	$17,500.00

7 Channels

3 Channels

COST FORMULA RATE

= [($12,000 x 7) + ($17,500 x 3)] / 10
= ($84,000 + $52,500) / 10
= $136,500 / 10
= $13,650 per channel

*Based on a hypothetical operator with a ten channel set-aside requirement who designates for leased access seven tier channels (all with the same cost) and three premium channels (all with the same costs).

LEASED ACCESS COST FORMULA PROGRAMMER CHARGE

TIER CHANNEL*		
Maximum rate	=	$13,650
Subscriber revenue to operator ($.50 x 20,000)	=	—$10,000
Tiered Programmer Charge	=	$ 3,650

PREMIUM CHANNEL*		
Maximum rate	=	$13,650
Subscriber revenue to operator	=	—$ 0
Premium Programmer Charge	=	$13,650

(Unregulated subscriber revenue goes to programmer)

*Determined by how the leased access programming is carried, not by the type of channel bumped.

CERTIFICATE OF SERVICE

I, Sarah E. Whitesell, hereby certify that on this 15th day of May, 1996, I caused copies of the foregoing "Comments of ValueVision International, Inc." to be delivered by messenger to the following:

Sarah E. Whitesell

Sarah E. Whitesell

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